

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



REC'D 14 SEP 2004

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Applicant's or agent's file reference	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/12032	International filing date (day/month/year) 29.10.2003	Priority date (day/month/year) 18.11.2002
International Patent Classification (IPC) or both national classification and IPC A23D7/00		
Applicant UNILEVER N.V. et al.		

1. This International preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:
- I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the International application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 10.04.2004	Date of completion of this report 13.09.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Muller, I Telephone No. +49 89 2399-8716 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/12032**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-7 as originally filed

Claims, Numbers

1-8 as originally filed

9-14 filed with telefax on 25.08.2004

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☒ the claims, Nos.: 15,16
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-14
	No: Claims	
Inventive step (IS)	Yes: Claims	1-14
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations

see separate sheet

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EXAMINATION REPORT - SEPARATE SHEET**

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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following document/s/:

- D1: US-A-4 568 551 (SEEWI GILA ET AL) 4 February 1986 (1986-02-04)
- D2: EP-A-1 249 172 (NESTLE SA) 16 October 2002 (2002-10-16)
- D3: US-A-5 332 585 (ODERMATT ROBERT G ET AL) 26 July 1994 (1994-07-26)

1. Present claim 9 which is formulated as independent claim does not meet the requirements of Art. 6 PCT, as the formulation 'composition according to the invention' is unclear and leaves the reader in doubt as to the subject-matter to which this claim is directed.
As the sole technical feature which this claim contains is a list of specific starch-containing matters as defined in claim 1, this claim is considered for the following opinion as if referring to the independent claim 1.
2. The subject-matter of the sole independent claim 1 meets the requirement of Art. 33(2) PCT as none of D1-D3 appears to disclose a food product comprising a fat component having the triglyceride profile as defined in present claim 1.
3. Both D1 and D2 are considered to represent the most relevant state of the art. D1 discloses a process for the preparation of a dehydrated base product for thickened sauces and soups using from 20-75% by weight of a starchy material, 25-80% by weight of a melted hardened edible fat and from 0,5 to 15% by weight of water (cf. in particular the examples 1-3, 3a, 4 and 4a and col. 3, l. 57-col. 4, l. 45); the final water content in the grated dehydrated product being between 3-6% (cf. examples). The product of D1 disperses in hot water and forms thick, creamy and lump-free products. D2 discloses in example 3 flakes comprising 17% potato starch, 47% wheat flour and 37% fat component comprising interesterified palm oil (55%) and totally hydrogenated palm oil (45%) (cf. example 1) to be used in dehydrated food products for soups or sauces. The fat component used as well as the resulting food products comprise low content of trans fatty acids (cf. less than 3% trans fatty acids in the fat component).
D3 further discloses in the example in col. 4,a granular instant preparation comprising hydrogenated palm oil and wheat flour).

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The subject-matter of present claim 1 differs from D1 and D2 in the specific triglyceride profile.

The problem to be solved by the present invention may be regarded as providing an alternative food composition.

Neither hint nor suggestion can be found in D1-D3 to provide a food composition comprising at said levels starchy matter and triglycerides of fatty acids, the triglycerides having a fatty acid profile as defined in present claim 1.

Hence, the subject-matter of claim 1 appears to meet the requirements of Art. 33(3) PCT:

4. Claims 2-14 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step (Art. 33(2) and (3) PCT).
5. The subject-matter of claims 1-14 is applicable in the food industry (Art. 33(4) PCT).